HON'BLE SRI JUSTICE A. GOPAL REDDY

WRIT PETITION NO.22520 OF 1995

DATE:19.12.2006

Between:

Lamba Theatre

..... PETITIONER

AND

Additional Industrial Tribunal, Hyderabad
Rep. By its Presiding Officer & two others.

.....RESPONDENTS

HON'BLE SRI JUSTICE A. GOPAL REDDY

W.P. No.22520 OF 1995

ORDER:

By means of filing this writ petition, the petitioner seeks a Mandamus restraining the first respondent i.e. the Presiding Officer,

Additional Industrial Tribunal, Hyderabad from proceeding with M.P.No.36 of 1994 pending on his file.

It is not disputed that the third respondent, who was working as a Booking Clerk in the petitioner-theatre, on termination of his services, moved the authority under the A.P. Shops & Establishments Act, Hyderabad-second respondent herein. It was contested by the petitioner-theatre contending that the third respondent was not entitled to any benefits and it is not the case of termination, but it is a case of voluntary cessation of employment or resignation and therefore, the second respondent has no authority and the amounts as was claimed by the third respondent was not correct. It is stated that ex parte orders were passed by the second respondent by allowing the application of the third respondent. On that, the petitioner-theatre claims to have filed a petition seeking to set aside the ex parte orders and the said petition was also dismissed. The petitioner-theatre again filed another petition seeking to set aside the dismissal of the set aside petition filed to set aside the ex parte order passed in the application, and the said petition is stated to be pending before the second respondent. Meanwhile, since there is no stay, the third respondent moved the Industrial Tribunal under Section 33-C(2) of the Industrial Disputes Act claiming certain amounts in view of the orders passed by the second respondent in the application filed before him.

Unless the ex parte order passed by the second respondent in the application filed by the third respondent is stayed in appropriate proceedings, third respondent is at liberty to move the Industrial Tribunal under Section 33-C(2) of the Industrial Disputes Act for recovery of the amounts, as determined by the second respondent. In view of the same, the Industrial Tribunal cannot be restrained from proceeding with M.P.No.36 of 1994 merely because the application filed by the petitioner to set aside the dismissal of petition filed for setting aside the ex parte order is pending. The learned counsel for the petitioner is also not able to give the information whether the

petition filed by the petitioner-theatre before the second respondent is still pending or has already been decided. In view of the same, if the petitioner-theatre has already obtained any favourable orders from the second respondent, it is at liberty to bring it to the notice of the Industrial Tribunal and contest the matter on merits.

With the above observations, the Writ Petition is dismissed. No order as to costs.

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A. GOPAL REDDY, J

19th DECEMBER, 2006.
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